

FIRST REGULAR SESSION

# SENATE BILL NO. 441

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOUFFER.

Read 1st time February 5, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

1992S.011

## AN ACT

To repeal section 135.1150, RSMo, and to enact in lieu thereof one new section relating to the Residential Treatment Agency Tax Credit Program.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 135.1150, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 135.1150, to read as follows:

135.1150. 1. This section shall be known and may be cited as the  
2 "Residential Treatment Agency Tax Credit Act".

3 2. As used in this section, the following terms mean:

4 (1) "Certificate", a tax credit certificate issued under this section;

5 (2) "Department", the Missouri department of social services;

6 (3) "Eligible [monetary] donation", donations received from a taxpayer by  
7 an agency that are used solely to provide direct care services to children who are  
8 residents of this state. **Eligible donations may include cash, publicly-**  
9 **traded stocks and bonds, and real estate that will be valued and**  
10 **documented according to rules promulgated by the department of**  
11 **social services.** For purposes of this section, "direct care services" include but  
12 are not limited to increasing the quality of care and service for children through  
13 improved employee compensation and training;

14 (4) "Qualified residential treatment agency" or "agency", a residential care  
15 facility that is licensed under section 210.484, RSMo, accredited by the Council  
16 on Accreditation (COA), the Joint Commission on Accreditation of Healthcare  
17 Organizations (JCAHO), or the Commission on Accreditation of Rehabilitation  
18 Facilities (CARF), and is under contract with the Missouri department of social  
19 services to provide treatment services for children who are residents or wards of

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

20 residents of this state, and that receives eligible monetary donations. Any agency  
21 that operates more than one facility or at more than one location shall be eligible  
22 for the tax credit under this section only for any eligible monetary donations  
23 made to facilities or locations of the agency which are licensed and accredited;

24 (5) "Taxpayer", any of the following individuals or entities who make **an**  
25 eligible [monetary donations] **donation** to an agency:

26 (a) A person, firm, partner in a firm, corporation, or a shareholder in an  
27 S corporation doing business in the state of Missouri and subject to the state  
28 income tax imposed in chapter 143, RSMo;

29 (b) A corporation subject to the annual corporation franchise tax imposed  
30 in chapter 147, RSMo;

31 (c) An insurance company paying an annual tax on its gross premium  
32 receipts in this state;

33 (d) Any other financial institution paying taxes to the state of Missouri  
34 or any political subdivision of this state under chapter 148, RSMo;

35 (e) An individual subject to the state income tax imposed in chapter 143,  
36 RSMo.

37 3. For all taxable years beginning on or after January 1, 2007, any  
38 taxpayer shall be allowed a credit against the taxes otherwise due under chapter  
39 147, 148, or 143, RSMo, excluding withholding tax imposed by sections 143.191  
40 to 143.265, RSMo, in an amount equal to fifty percent of the amount of an eligible  
41 monetary donation, subject to the restrictions in this section. The amount of the  
42 tax credit claimed shall not exceed the amount of the taxpayer's state income tax  
43 liability in the tax year for which the credit is claimed. Any amount of credit that  
44 the taxpayer is prohibited by this section from claiming in a tax year shall not be  
45 refundable, but may be carried forward to any of the taxpayer's four subsequent  
46 taxable years.

47 4. To claim the credit authorized in this section, an agency may submit  
48 to the department an application for the tax credit authorized by this section on  
49 behalf of taxpayers. The department shall verify that the agency has submitted  
50 the following items accurately and completely:

51 (1) A valid application in the form and format required by the department;

52 (2) A statement attesting to the eligible [monetary] donation received,  
53 which shall include the name and taxpayer identification number of the  
54 individual making the eligible [monetary] donation, the amount of the eligible  
55 [monetary] donation, and the date the eligible [monetary] donation was received

56 by the agency; and

57 (3) Payment from the agency equal to the value of the tax credit for which  
58 application is made.

59 If the agency applying for the tax credit meets all criteria required by this  
60 subsection, the department shall issue a certificate in the appropriate amount.

61 5. An agency may apply for tax credits in an aggregate amount that does  
62 not exceed forty percent of the payments made by the department to the agency  
63 in the preceding twelve months.

64 6. Tax credits issued under this section may be assigned, transferred,  
65 sold, or otherwise conveyed, and the new owner of the tax credit shall have the  
66 same rights in the credit as the taxpayer. Whenever a certificate is assigned,  
67 transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed  
68 with the department specifying the name and address of the new owner of the tax  
69 credit or the value of the credit.

70 7. The department shall promulgate rules to implement the provisions of  
71 this section. Any rule or portion of a rule, as that term is defined in section  
72 536.010, RSMo, that is created under the authority delegated in this section shall  
73 become effective only if it complies with and is subject to all of the provisions of  
74 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and  
75 chapter 536, RSMo, are nonseverable and if any of the powers vested with the  
76 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective  
77 date, or to disapprove and annul a rule are subsequently held unconstitutional,  
78 then the grant of rulemaking authority and any rule proposed or adopted after  
79 August 28, 2006, shall be invalid and void.

80 8. Under section 23.253, RSMo, of the Missouri sunset act:

81 (1) The provisions of the new program authorized under this section shall  
82 automatically sunset six years after August 28, 2006, unless reauthorized by an  
83 act of the general assembly; and

84 (2) If such program is reauthorized, the program authorized under this  
85 section shall automatically sunset twelve years after the effective date of the  
86 reauthorization of this section; and

87 (3) This section shall terminate on September first of the calendar year  
88 immediately following the calendar year in which the program authorized under  
89 this section is sunset.